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Attorneys for Defendants MediaTek Inc. and MediaTek USA Inc.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

WIRELESS SWITCH IP, LLC,

Plaintiff,

vs.

MEDIATEK INC., MEDIATEK USA INC.,  
SEED DEVELOPMENT LIMITED, and  
SEED INC.,

Defendants.

Case No. 3:17-cv-4232-JD

**MEDIATEK INC.'S ANSWER AND  
COUNTERCLAIMS**

**DEMAND FOR JURY TRIAL**

Defendant MediaTek Inc. ("MediaTek") answers "Wireless Switch IP, LLC's Complaint for Patent Infringement" ("Complaint") as follows, denying all allegations and averments therein except as to that which is expressly admitted herein, using the same headings and numbering as in the Complaint.

**NATURE OF THE ACTION**

1. MediaTek admits that Plaintiff's Complaint purports to state a cause of action for patent infringement as to U.S. Patent Nos. 7,356,351 and 7,647,070 (collectively, "the Wireless Switch IP Patents").

2. MediaTek admits that Plaintiff's Complaint contains allegations that MediaTek, MediaTek USA Inc. ("MediaTek USA"), Seed Development Limited, and Seed Inc. "directly

1 and indirectly infringe the Wireless Switch IP Patents by making, using, offering for sale,  
 2 importing, and selling the MediaTek LinkIt™ Assist 2502 ('LinkIt Assist 2502') and inducing  
 3 and contributing to the infringement of others” and that Plaintiff seeks damages and other relief;  
 4 however, MediaTek denies the allegations of infringement as to MediaTek and states that  
 5 Plaintiff is not entitled to damages or any other relief from or against MediaTek.

### 6 **THE PARTIES**

7 3. MediaTek lacks knowledge or information sufficient to form a belief about the  
 8 truth of the allegations of Paragraph 3 and, therefore, denies them pursuant to Fed. R. Civ. P.  
 9 8(b)(5).

10 4. MediaTek admits the allegations of Paragraph 4.

11 5. MediaTek admits that MediaTek USA is a corporation organized under the laws of  
 12 Delaware with its principal place of business at 2840 Junction Avenue, San Jose, CA 95134.  
 13 MediaTek denies that “MediaTek USA is a wholly-owned subsidiary of MediaTek Inc.” to the  
 14 extent that allegation implies direct ownership of MediaTek USA by MediaTek. MediaTek  
 15 objects to Plaintiff referring to MediaTek and MediaTek USA collectively as “MediaTek” and  
 16 objects to Plaintiff stating that all allegations “will apply equally to each company as both are  
 17 MediaTek entities” because the two companies are separate and distinct legal entities that conduct  
 18 separate and distinct business activities. MediaTek is answering Plaintiff’s Complaint on its own  
 19 behalf and not on behalf of any other entity such as MediaTek USA. MediaTek admits that “one  
 20 or more officers, employees, contractors, or persons otherwise authorized to perform duties on  
 21 behalf of MediaTek Inc. ... have made, used, sold and/or offered for sale” the MediaTek LinkIt™  
 22 Assist 2502 “in the course of performing their duties.” MediaTek denies that “all of the following  
 23 allegations [in the Complaint] apply to both MediaTek, [sic] Inc. and MediaTek USA equally.”  
 24 MediaTek denies the remaining allegations of Paragraph 5.

25 6. MediaTek lacks knowledge or information sufficient to form a belief about the  
 26 truth of the allegations of Paragraph 6 and, therefore, denies them pursuant to Fed. R. Civ. P.  
 27 8(b)(5).

7. MediaTek lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 7 and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

8. MediaTek admits that a portion of MediaTek's website states that "LinkIt Assist 2502" was "[c]o-designed with Sseed Studio." See <https://labs.mediatek.com/en/platform/linkit-assist-2502>, at tab "HDK." MediaTek denies the remaining allegations of Paragraph 8.

### **JURISDICTION AND VENUE**

9. MediaTek admits that Plaintiff's Complaint purports to state a cause of action for patent infringement under 35 U.S.C. § 1 *et seq.*, and thus, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. MediaTek denies that MediaTek has "committed acts within the Northern District of California giving rise to this action and ha[s] established minimum contacts with this forum such that the exercise of jurisdiction over" MediaTek "would not offend traditional notions of fair play and substantial justice" and that MediaTek "directly and through subsidiaries and intermediaries (including distributors, retailers, and others), ha[s] committed and continue[s] to commit acts of infringement in this District by, among other things, making, using, testing, selling, importing and/or offering for sale products that infringe the Wireless Switch IP Patents." The allegation in Paragraph 10 that "[t]his Court has both general and specific personal jurisdiction over MediaTek" is an allegation of law that requires no response from MediaTek, but MediaTek nevertheless denies the allegation. MediaTek lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 10 relating to MediaTek USA, Sseed Development Limited, and Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5). MediaTek denies the remaining allegations of Paragraph 10.

11. MediaTek denies the allegations of Paragraph 11 that are directed to MediaTek. As to the allegations of Paragraph 11 that are directed to MediaTek USA, MediaTek admits that MediaTek USA (a) "transact[s] and conduct[s] business in this District and the State of California, and [is] subject to the personal jurisdiction of this Court;" and (b) "has minimum

1 contacts within the State of California and this District and has purposefully availed itself of the  
2 privileges of conducting business in the State of California and in this District by, inter alia,  
3 maintaining a regular and established place of business in this District, in San Jose, CA.”

4 MediaTek denies the remainder of the allegations of Paragraph 11.

5 12. MediaTek lacks knowledge or information sufficient to form a belief about the  
6 truth of the allegations of Paragraph 12 and, therefore, denies them pursuant to Fed. R. Civ. P.  
7 8(b)(5).

8 13. MediaTek denies the allegations of Paragraph 13, but, solely for the purposes of  
9 this action, MediaTek does not contest venue in this judicial district.

10 14. MediaTek lacks knowledge or information sufficient to form a belief about the  
11 truth of the allegations of Paragraph 14 and, therefore, denies them pursuant to Fed. R. Civ. P.  
12 8(b)(5).

13 **INTRADISTRICT ASSIGNMENT**

14 15. The statement in Paragraph 15 of the Complaint is an interpretation of the Local  
15 Civil Rules to which MediaTek believes no response is required.

16 **COUNT I: [ALLEGED] INFRINGEMENT OF THE '351 PATENT**

17 16. MediaTek incorporates by reference Paragraphs 1-12 above.

18 17. MediaTek lacks knowledge or information sufficient to form a belief about the  
19 truth of the allegations of Paragraph 17 and, therefore, denies them pursuant to Fed. R. Civ. P.  
20 8(b)(5).

21 18. MediaTek admits that, on its face, U.S. Patent No. 7,356,351 (“the ’351 patent”) states that it was issued by the United States Patent and Trademark Office on April 8, 2008, and is  
22 entitled “Method and Apparatus for Disabling the RF Functionality of a Multi-Function Wireless  
23 Communication Device While Maintaining Local Functionality.” MediaTek also admits that a  
24 copy of the ’351 patent is attached as Exhibit A to the Complaint.

25  
26 19. The statement in Paragraph 19 is an issue of law to which MediaTek believes no  
27 response is required.

1           20.     MediaTek denies the allegations of Paragraph 20.

2           21.     MediaTek denies the allegations of Paragraph 21 as they relate to MediaTek.  
3     MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
4     allegations of Paragraph 21 as they relate to MediaTek USA, Sseed Development Limited, and  
5     Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

6           22.     MediaTek denies the allegations of Paragraph 22 as they relate to MediaTek.  
7     MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
8     allegations of Paragraph 22 as they relate to MediaTek USA, Sseed Development Limited, and  
9     Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

10          23.     MediaTek denies the allegations of Paragraph 23 as they relate to MediaTek.  
11     MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
12     allegations of Paragraph 23 as they relate to MediaTek USA, Sseed Development Limited, and  
13     Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

14          24.     MediaTek denies the allegations of Paragraph 24 as they relate to MediaTek.  
15     MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
16     allegations of Paragraph 24 as they relate to MediaTek USA, Sseed Development Limited, and  
17     Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

18                   **COUNT 2: [ALLEGED] INFRINGEMENT OF THE '070 PATENT**

19          25.     MediaTek incorporates by reference Paragraphs 1-21 above.

20          26.     MediaTek lacks knowledge or information sufficient to form a belief about the  
21     truth of the allegations of Paragraph 26 and, therefore, denies them pursuant to Fed. R. Civ. P.  
22     8(b)(5).

23          27.     MediaTek admits that, on its face, U.S. Patent No. 7,647,070 (“the ’070 patent”)  
24     states that it was issued by the United States Patent and Trademark Office on January 12, 2010,  
25     and is entitled “Method and Apparatus for Disabling the RF Functionality of a Multi-Function  
26     Wireless Communication Device While Maintaining Access to Local Functionality.” MediaTek  
27     also admits that a copy of the ’070 patent is attached as Exhibit B to the Complaint.  
28

1           28.     The statement in Paragraph 28 is an issue of law to which MediaTek believes no  
2 response is required.

3           29.     MediaTek denies the allegations of Paragraph 29.

4           30.     MediaTek denies the allegations of Paragraph 30 as they relate to MediaTek.  
5 MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
6 allegations of Paragraph 30 as they relate to MediaTek USA, Sseed Development Limited, and  
7 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

8           31.     MediaTek denies the allegations of Paragraph 31 as they relate to MediaTek.  
9 MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
10 allegations of Paragraph 31 as they relate to MediaTek USA, Sseed Development Limited, and  
11 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

12          32.     MediaTek denies the allegations of Paragraph 32 as they relate to MediaTek.  
13 MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
14 allegations of Paragraph 32 as they relate to MediaTek USA, Sseed Development Limited, and  
15 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

16          33.     MediaTek denies the allegations of Paragraph 33 as they relate to MediaTek.  
17 MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
18 allegations of Paragraph 33 as they relate to MediaTek USA, Sseed Development Limited, and  
19 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

20          34.     MediaTek denies the allegations of Paragraph 34 as they relate to MediaTek.  
21 MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
22 allegations of Paragraph 34 as they relate to MediaTek USA, Sseed Development Limited, and  
23 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

24          35.     MediaTek denies the allegations of Paragraph 35 as they relate to MediaTek.  
25 MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
26 allegations of Paragraph 35 as they relate to MediaTek USA, Sseed Development Limited, and  
27 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

1           36.     MediaTek denies the allegations of Paragraph 36 as they relate to MediaTek.  
2     MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
3     allegations of Paragraph 36 as they relate to MediaTek USA, Sseed Development Limited, and  
4     Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

5           37.     MediaTek denies the allegations of Paragraph 37 as they relate to MediaTek.  
6     MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
7     allegations of Paragraph 37 as they relate to MediaTek USA, Sseed Development Limited, and  
8     Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

9           38.     MediaTek denies the allegations of Paragraph 38 as they relate to MediaTek.  
10    MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
11    allegations of Paragraph 38 as they relate to MediaTek USA, Sseed Development Limited, and  
12    Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

13          39.     MediaTek denies the allegations of Paragraph 39 as they relate to MediaTek.  
14    MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
15    allegations of Paragraph 39 as they relate to MediaTek USA, Sseed Development Limited, and  
16    Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

17          40.     MediaTek denies the allegations of Paragraph 40 as they relate to MediaTek.  
18    MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
19    allegations of Paragraph 40 as they relate to MediaTek USA, Sseed Development Limited, and  
20    Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

21          41.     MediaTek denies the allegations of Paragraph 41 as they relate to MediaTek.  
22    MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
23    allegations of Paragraph 41 as they relate to MediaTek USA, Sseed Development Limited, and  
24    Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

25          42.     MediaTek denies the allegations of Paragraph 42 as they relate to MediaTek.  
26    MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
27  
28

1 allegations of Paragraph 42 as they relate to MediaTek USA, Sseed Development Limited, and  
2 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

3 43. MediaTek denies the allegations of Paragraph 43 as they relate to MediaTek.  
4 MediaTek lacks knowledge or information sufficient to form a belief about the truth of the  
5 allegations of Paragraph 43 as they relate to MediaTek USA, Sseed Development Limited, and  
6 Sseed Inc. and, therefore, denies them pursuant to Fed. R. Civ. P. 8(b)(5).

7 **PRAYER FOR RELIEF**

8 MediaTek denies that Plaintiff is entitled to any of the relief requested in its “Prayer for  
9 Relief” or to any relief whatsoever.

10 **GENERAL DENIAL**

11 MediaTek denies each and every allegation contained in the Complaint that was not  
12 specifically admitted above.

13 **ADDITIONAL DEFENSES**

14 MediaTek alleges and asserts the following defenses in response to the allegations in the  
15 Complaint, undertaking the burden of proof only as to those defenses deemed affirmative  
16 defenses by law, regardless of how such defenses are denominated herein. In addition to the  
17 additional defenses described below, MediaTek reserves all rights to allege additional defenses  
18 that become known through the course of discovery.

19 **FIRST DEFENSE**

20 **FAILURE TO STATE A CLAIM**

21 Plaintiff’s Complaint fails to state a claim upon which relief can be granted.

22 **SECOND DEFENSE**

23 **NON-INFRINGEMENT OF THE ’351 PATENT**

24 MediaTek does not infringe and has not infringed (directly, contributorily, or by  
25 inducement) any valid claim of the ’351 patent, either literally or under the doctrine of  
26 equivalents.



**THIRD DEFENSE****NON-INFRINGEMENT OF THE '070 PATENT**

MediaTek does not infringe and has not infringed (directly, contributorily, or by inducement) any valid claim of the '070 patent, either literally or under the doctrine of equivalents.

**FOURTH DEFENSE****INVALIDITY OF THE '351 PATENT**

The claims of the '351 patent are invalid for failure to satisfy one or more of the requirements of Sections 101, 102, 103, and 112 of Title 35 of the United States Code.

**FIFTH DEFENSE****INVALIDITY OF THE '070 PATENT**

The claims of the '070 patent are invalid for failure to satisfy one or more of the requirements of Sections 101, 102, 103, and 112 of Title 35 of the United States Code.

**OTHER DEFENSES AND ARGUMENTS RESERVED**

MediaTek reserves the right to assert any other defenses that discovery may reveal and to present any facts or evidence that discovery may reveal in support of MediaTek's defenses and counterclaims herein.

**COUNTERCLAIMS**

MediaTek incorporates herein by reference the admissions, allegations, denials, and "Additional Defenses" contained in its answer above as if fully set forth herein. For its counterclaims against Plaintiff, MediaTek states as follows.

**THE PARTIES**

1. Defendant MediaTek Inc. ("MediaTek") is corporation organized under the laws of Taiwan with its principal place of business at No. 1, Dusing 1<sup>st</sup> Road, Hsinchu Science Park, Hsinchu City 30078, Taiwan.

2. Based on the allegations contained in the Complaint, Wireless Switch IP, LLC (“Plaintiff”) is a Texas limited liability company with its principal place of business at 1400 Preston Road, Suite 400, Plano, Texas 75201.

### **JURISDICTION AND VENUE**

3. MediaTek brings these counterclaims under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq., for a declaratory judgment pursuant to 28 U.S.C. §§ 2201-02 that (a) the ’351 patent has not been infringed and is not being infringed by MediaTek, (b) the ’070 patent has not been infringed and is not being infringed by MediaTek, (c) one or more claims of the ’351 patent are invalid, and (d) one or more claims of the ’070 patent are invalid.

4. Subject to MediaTek’s defenses and denials set forth above, MediaTek alleges that to the extent this Court has jurisdiction over Plaintiff’s claims against MediaTek, this Court has jurisdiction over the subject matter of these Counterclaims under, without limitation, 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

5. This Court has personal jurisdiction over Plaintiff.

6. To the extent that venue in this District as to Plaintiff’s claims is found to be proper, venue is proper in this District for these Counterclaims pursuant to 28 U.S.C. §§ 1391(b) and 1391(c).

### **FACTUAL BACKGROUND**

7. In its Complaint, Plaintiff asserts that MediaTek has infringed and is infringing U.S. Patent Nos. 7,356,351 (“the ’351 patent”) and 7,647,070 (“the ’070 patent”).

8. The ’351 patent is invalid, is unenforceable by Plaintiff, and/or has not been and is not being infringed by MediaTek, either directly or indirectly, literally or under the doctrine of equivalents.

9. The ’070 patent is invalid, is unenforceable by Plaintiff, and/or has not been and is not being infringed by MediaTek, either directly or indirectly, literally or under the doctrine of equivalents.

10. There is an actual case or controversy between MediaTek and Plaintiff over the invalidity, unenforceability by Plaintiff, and non-infringement of the '351 patent.

11. There is an actual case or controversy between MediaTek and Plaintiff over the invalidity, unenforceability by Plaintiff, and non-infringement of the '070 patent.

#### COUNTERCLAIM COUNT ONE

##### **Declaratory Judgment of Non-Infringement of U.S. Patent No. 7,356,351**

12. MediaTek restates and incorporates by reference its allegations in Paragraphs 1 through 11 of its Counterclaims.

13. An actual case or controversy exists between MediaTek and Plaintiff whether the '351 patent is not infringed by MediaTek.

14. A judicial declaration is necessary and appropriate so that MediaTek may ascertain its rights regarding the '351 patent.

15. MediaTek has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '351 patent.

#### COUNTERCLAIM COUNT TWO

##### **Declaratory Judgment of Non-Infringement of U.S. Patent No. 7,647,070**

16. MediaTek restates and incorporates by reference its allegations in Paragraphs 1 through 11 of its Counterclaims.

17. An actual case or controversy exists between MediaTek and Plaintiff whether the '070 patent is not infringed by MediaTek.

18. A judicial declaration is necessary and appropriate so that MediaTek may ascertain its rights regarding the '070 patent.

19. MediaTek has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '070 patent.

**COUNTERCLAIM COUNT THREE**

**Declaratory Judgment of Invalidity of U.S. Patent No. 7,356,351**

20. MediaTek restates and incorporates by reference its allegations in Paragraphs 1 through 11 of its Counterclaims.

21. An actual case or controversy exists between MediaTek and Plaintiff whether the claims of the '351 patent are invalid.

22. A judicial declaration is necessary and appropriate so that MediaTek may ascertain its rights regarding the '351 patent.

23. One or more claims of the '351 patent are invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 101, 102, 103, and 112.

**COUNTERCLAIM COUNT FOUR**

**Declaratory Judgment of Invalidity of U.S. Patent No. 7,647,070**

24. MediaTek restates and incorporates by reference its allegations in Paragraphs 1 through 11 of its Counterclaims.

25. An actual case or controversy exists between MediaTek and Plaintiff whether the claims of the '070 patent are invalid.

26. A judicial declaration is necessary and appropriate so that MediaTek may ascertain its rights regarding the '070 patent.

27. One or more claims of the '070 patent are invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 101, 102, 103, and 112.

**PRAYER FOR RELIEF**

WHEREFORE, MediaTek prays for judgment as follows:

1. a judgment dismissing Plaintiff's Complaint against MediaTek with prejudice and denying all relief requested under said Complaint as against MediaTek;
2. a judgment in favor of MediaTek on all of its Counterclaims;

3. a declaration that MediaTek has not infringed, contributed to the infringement of, or induced others to infringe, either directly or indirectly, any valid claim of the '351 patent;
4. a declaration that MediaTek has not infringed, contributed to the infringement of, or induced others to infringe, either directly or indirectly, any valid claim of the '070 patent;
5. a declaration that one or more claims of the '351 patent are invalid;
6. a declaration that one or more claims of the '070 patent are invalid;
7. a declaration that this case is exceptional and an award to MediaTek of its reasonable costs and expenses of litigation, including attorneys' fees and expert witness fees; and
8. such other and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

In accordance with Rule 38 of the Federal Rules of Civil Procedure and Civil L.R. 3-6(a), MediaTek respectfully demands a jury trial of all issues triable to a jury in this action.

Dated: September 11, 2017

/s/ Brandon H. Stroy  
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Attorneys for MediaTek Inc.  
 and MediaTek USA Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 11, 2017, the foregoing document was caused to be served on counsel for Plaintiff Wireless Switch IP, LLC via the Court's CM/ECF system and by email to the addresses shown below:

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